

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
JEFFREY N. WRIGHT)

For Appellant: Jeffrey N. Wright, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

James C. Stewart
Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the **Franchise Tax** Board on the protest of Jeffrey N. Wright against a proposed assessment of additional personal income tax in the amount of \$227.00, plus interest, for the year 1974.

Appeal of Jeffrey N. Wright

Appellant filed a timely California personal income tax return for 1974. In that return he claimed head of household status and computed his tax liability accordingly. He identified the individual qualifying him for such status as Richard Bruckner, who lived with him and allegedly received more than one-half of his support from appellant during 1974. Mr. Bruckner bore no relationship to appellant other than as a friend.

Respondent disallowed appellant's claimed head of household status on the ground that Mr. Bruckner was not a dependent who qualified him for such status. Respondent's disallowance of appellant's status as a head of household was based upon section 17044, subdivision (a), of the Revenue and Taxation Code, enacted in 1971, which precludes a taxpayer from being considered a head of household when the individual otherwise qualifying him is unrelated by blood or marriage. It did allow appellant an \$8.00 dependent exemption credit for Mr. Bruckner.

Appellant contends that the instructions for preparing his 1974 tax return did not state that an unrelated dependent would not qualify him as a head of household. Under the circumstances, he urges that respondent should be estopped from assessing tax or interest. Appellant does admit, however, that he had knowledge of the applicable code provisions since December 26, 1973, when he was asked to pay a deficiency in a similar situation.

As previously indicated, the law specifically precludes head of household status where the dependent upon whom the taxpayer relies for the claimed status is unrelated by blood or marriage. (Rev. & Tax. Code, § 17044, subd. (a); see also Appeal of Stephen M. Padwa, Cal. St. Bd. of Equal., May 10, 1977; Appeal of Judith A. Marshall, Cal. St. Bd. of Equal., May 10, 1977.) With respect to interest, section 18688 of the Revenue and Taxation Code specifically provides that interest upon the amount assessed as a deficiency shall be assessed, collected and paid in the same manner as the tax from the date prescribed for the payment of the tax until the date the tax is paid. Furthermore, clearly appellant has not established that he relied upon respondent's instructions to his detriment. The instruction pamphlet was not issued until early in 1975, which was subsequent to appellant's living arrangements during 1974. Moreover, appellant admits that he was aware of the applicable code provisions since December 26, 1973.

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For the reasons stated above, respondent's action in this matter is sustained.

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Jeffrey N. Wright against a proposed assessment of additional personal income tax in the amount of \$227.00, plus interest, for the year 1974, be and the same is hereby sustained.

Done at Sacramento, California, this 26th day of July, 1978, by the State Board of Equalization.

George R. Jones, Chairman
Dale O. Jones, Member
William H. Bennett, Member
David L. Lark, Member
_____, Member